

Update: Juvenile Traffic Benchbook (Revised Edition)

CHAPTER 3

Permitted Procedures for Adjudicating Criminal Traffic Offenses

3.6 Requirements Under the Crime Victim's Rights Act

Effective January 1, 2006, 2005 PA 184 added one offense to the list of offenses in MCL 780.781(1)(f)(iii) to which the requirements of MCL 780.783a apply. Insert the following text before the first bullet on page 36:

- injuring a worker in a work zone, MCL 257.601b(2);

CHAPTER 4

Dispositions for Criminal Traffic Violations

4.5 Restitution, Crime Victim's Rights Assessment, and Reimbursement of Costs of Service

A. Restitution

Effective January 1, 2006, 2005 PA 184 amended MCL 780.794(2) to add youthful trainee status and delayed sentences or deferred judgments of guilt to the list of outcomes requiring the court to order full restitution under MCL 780.794. Replace the quoted text at the top of page 50 with the following:

“Except as provided in subsection (8), at the dispositional hearing or sentencing for an offense, the court shall order, in addition to or in lieu of any other disposition or penalty authorized by law, that the juvenile make full restitution to any victim of the juvenile's course of conduct that gives rise to the disposition or conviction or to the victim's estate. For an offense that is resolved informally by means of a consent calendar diversion or by another informal method that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.”

CHAPTER 4

Dispositions for Criminal Traffic Violations

4.5 Restitution, Crime Victim's Rights Assessment, and Reimbursement of Costs of Service

A. Restitution

"Victim" defined.

Insert the following text immediately before **"Calculating loss for property damage"** on page 52:

Parents of a minor victim. MCL 780.794(24)* states that "[i]f the victim is a minor, the order of restitution shall require the defendant to pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

"(a) Homemaking and child care expenses.

"(b) Income loss not ordered to be paid under [MCL 780.794(4)(h)].*

"(c) Mileage.

"(d) Lodging or housing.

"(e) Meals.

"(f) Any other cost incurred in exercising the rights of the victim or a parent under this act."

Calculating loss for property damage.

Effective January 1, 2006, 2005 PA 184 amended MCL 780.794(3) to mandate a court to order one or more of the remedies in the statute when a juvenile's offense results in damage, destruction, or seizure of a victim's property. Near the middle of page 52, in the first full paragraph, replace the word "may" with "shall" in the first and third sentences.

Calculating expenses related to physical or psychological injury.

Effective January 1, 2006, 2005 PA 184 also eliminated the suggestion that a court has discretion to order restitution for the expenses related to physical or psychological injury and amended the list of items for which a juvenile may be ordered to pay restitution when the juvenile's crime results in physical or psychological injury to a victim. At the bottom of page 52 and the top of page

*Effective
January 1,
2006. 2005 PA
184.

*See this
month's update
to this section
for discussion
of this statutory
provision.

53, replace the word “may” with “shall” in the first two sentences of that paragraph.

On page 53, add the following provision to the quoted list found in MCL 780.794(4):

* * *

“(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.”

CHAPTER 4

Dispositions for Criminal Traffic Violations

4.5 Restitution, Crime Victim's Rights Assessment, and Reimbursement of Costs of Service

B. Crime Victim's Rights Fund Assessment

Effective January 1, 2006, 2005 PA 184 added one traffic offense to the list of "serious misdemeanors" listed in MCL 780.811(1)(a). Insert the following text before the first bullet on page 57:

- injuring a worker in a work zone, MCL 257.601b(2);

CHAPTER 4

Dispositions for Criminal Traffic Violations

4.6 Allocation of Money Collected for Payment of Fines, Costs, Restitution, Assessments, or Other Payments

Effective January 1, 2006, 2005 PA 184 amended MCL 780.794a(1) to address allocation of payments in cases where a juvenile must pay fines, costs, restitution, and other payments in more than one proceeding and fails to specify the proceeding to which a payment applies. Insert the following text before Section 4.7, near the bottom of page 60:

MCL 780.794a(1) governs the allocation of money collected from a juvenile who is obligated to make payments in more than one proceeding and who, when making a payment, fails to specify the proceeding to which the payment applies. According to MCL 780.794a(1):

“If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.”

CHAPTER 5

Abstracts, Expungement of Records, & Setting Aside Adjudications

5.2 Family Division Records of Criminal Traffic Violations

Effective January 1, 2006, the exception in MCR 3.925(E)(2)(c) to the destruction of juvenile files for adjudicated offenses described in MCL 712A.18e(2) was eliminated. On page 66, replace the third paragraph with the following text:

MCR 3.925(E)(2)(c) states that, except for diversion and consent calendar records (discussed below), “the court must destroy the files and records pertaining to a person’s juvenile offenses when the person becomes 30 years old.”